UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1993/3
30 July 1993

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-fifth session
Item 4 of the provisional agenda

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN CONCERNED

Memorandum submitted by the International Labour Office

I. RATIFICATION OF CONVENTIONS

1. Since the previous session of the Sub-Commission, the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) has received seven further ratifications (Burundi, Croatia, Czech Republic, Bosnia and Herzegovina, Kyrgyzstan, Slovak Republic and Slovenia), bringing the number of States bound by it to 117. The Equal Remuneration Convention, 1951 (No. 100) has also received seven further ratifications (Bosnia and Herzegovina, Burundi, Czech Republic, Kyrgyzstan, Slovak Republic, Slovenia and Sri Lanka), bringing the total number of ratifications to 119. The Workers with Family Responsibilities Convention, 1981 (No. 156) has received two further ratifications (Bosnia and Herzegovina and Slovenia), bringing the total number to 20. The Employment Policy Convention, 1964 (No. 122) has received seven further ratifications (Bosnia and Herzegovina, Croatia, Czech Republic, Korea, Kyrgyzstan, Slovak Republic and Slovenia), bringing the total number to 81. The Migration for Employment Convention (Revised), 1949 (No. 97) received two further ratifications (Bosnia and Herzegovina and Slovenia), bringing the total number to 17. The Indigenous and Tribal Peoples Convention, 1989 (No. 169) received one further ratification (Costa Rica), bringing the total number of ratifications to five. The Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117) has received no further ratifications, the total number of ratifications remaining at 31. The Vocational Rehabilitation and

Employment Convention, 1983 (No. 159) has received seven new ratifications (Bosnia and Herzegovina, Czech Republic, Japan, Kyrgyzstan, Slovak Republic, Sao Tome and Principe and Slovenia), bringing the total number of ratifications to 46.

II. APPLICATION OF CONVENTIONS

2. Within the framework of the regular programme for the supervision of ILO Conventions and Recommendations, the Committee of Experts on the Application of Conventions and Recommendations made a number of comments to ratifying States at its session of March 1993, which are contained in its annual report to the International Labour Conference. 1/ This report was in turn discussed during the 80th session of the International Labour Conference (June 1993) by the tripartite Committee on the Application of Conventions and Recommendations, which, following invitations to concerned Governments to appear before it, heard more detailed explanations concerning points raised by the Committee of Experts from 45 Governments. 2/

3. In addition to its comments on the application of Conventions by ratifying countries in 1993, the Committee of Experts expressed its particular concern at a recent trend affecting discrimination and respect for the principle enshrined in Convention No. 111. It stated that, while some progress has been made over the last years, in particular regarding the elimination of discrimination in employment based on political opinion in the light of the democratization which has taken place in a number of countries, and regarding the promotion of equality in employment between men and women, other forms of discrimination - based on race, national origin and religion - have gained in importance, jeopardizing at times the progress made in the other areas. It called on all Governments, workers' and employers' organizations to take the measures in their power to repeal any statutory or regulatory instrument providing for or permitting discrimination incompatible with the ILO Convention and to put an end to discriminatory practices contrary to the principle of non-discrimination in employment.

4. The Committee of Experts also examined reports supplied under article 19, paragraphs 5 and 7, of the ILO Constitution, by Member States on the Workers with Family Responsibilities Convention (No. 156) and Recommendation (No. 165), 1981. 3/

III. ADOPTION OF NEW STANDARDS

5. At its 79th session (June 1992), the International Labour Conference adopted the Protection of Workers' Claims (Employers' Insolvency) Convention (No. 173) and Recommendation (No. 80), providing for special protection for workers' claims in the event of their employer becoming insolvent. At the 80th session (June 1993), the Conference adopted the Prevention of Major Industrial Accidents Convention (No. 174) and Recommendation (No. 181) and held the first of two planned discussions which will lead to the adoption of standards on part-time work.

IV. ACTION AGAINST APARTHEID IN SOUTH AFRICA

6. Since the previous session of the Sub-Commission, ILO has continued its anti-apartheid activities under the updated Declaration concerning Action against Apartheid in South Africa, adopted by the International Labour Conference at its 75th session in 1988. Activities for following up and monitoring measures against apartheid taken or not taken by ILO's constituent members were mainly carried out through the Group of Independent Experts responsible for following up and monitoring the implementation of sanctions and other action against apartheid, the Committee on Discrimination of the ILO Governing Body and the International Labour Conference's Committee on Action against Apartheid.

7. The Group of Independent Experts, set up in 1989, completed its work and held its last meeting in Geneva in February 1993. At this meeting as in previous ones the Group considered the replies received from governments and from employers' and workers' organizations to the revised questionnaire on the implementation of the Declaration concerning Action against Apartheid in South Africa and the accompanying Programme of Action. The report of this meeting was submitted to the Committee on Discrimination of the ILO Governing Body at its session in May-June 1993 and to the International Labour Conference's Committee on Action against Apartheid at its 80th session in June 1993.

8. As in previous years, the Committee on Action against Apartheid considered, at the 80th session of the International Labour Conference, the Special Report of the Director General on the Application of the Declaration concerning Action against Apartheid in South Africa, as well as documents relating to the work done in this area by the Committee on Discrimination of the ILO Governing Body.

9. In adopting the report of its Committee on Action against Apartheid, the Conference welcomed the multi-party negotiations which resumed in April 1993, and the agreement on a proposed date (27 April 1994) for free and democratic elections for a constituent Assembly to draft a constitution for a non-racial democratic South Africa. It nevertheless called for the maintenance of all existing sanctions against South Africa while urging the Government to bring about the total dismantling of apartheid and the creation of a non-racial, democratic society.

10. Noting that the present state of violence in South Africa is a major obstacle to the negotiation process, the Conference appealed to all parties concerned to cooperate in combating it. The Conference stressed the need to strengthen the machineries in place to curb the violence, such as the National Peace Accord and the Commission on the Prevention of Violence and Intimidation, and called on South African employers to play a direct role in preventing and helping to monitor violence in industry and in the country in general.

11. The Conference urged the Government to repeal the remaining discriminatory apartheid laws, to introduce measures to correct entrenched socio-economic inequalities and to expedite measures to extend basic labour legislation to workers in the Bantustans, in the public sector, in domestic service and on farms.

12. For its part, ILO should continue to give assistance to the democratic trade union movement in South Africa and to recently established tripartite bodies. Noting with satisfaction the ongoing efforts to establish a non-racial employers' organization, the Conference urged the ILO to extend its assistance to such an organization once formed.

13. Technical cooperation activities are still an important part of ILO's work against apartheid. Activities relating to the implementation of the updated Declaration concerning Action against Apartheid include research and visits to the ILO by representatives of the National Liberation Movements, trade unions, and a nascent non-racial employers' organization (two representatives of the cooperative movement in the Western Cape Province; an economist advising the ANC on trade and development policy; a trade unionist examining the potential for restructuring the chemical industry in South Africa; the General-Secretaries of both COSATU and the National Council of Trade Unions (NACTU); and members of the working group set up to establish a new non-racial employers' federation in South Africa).

14. To determine priorities, in February 1993 an ILO planning mission went to South Africa to assess the needs for technical cooperation and assistance in the transition to democracy. As a result of this, in April 1993, the ILO held a workshop in Johannesburg on labour relations in the public sector and two further workshops - on farm workers' and domestic workers' labour rights - are planned for the end of 1993. In addition, ILO officials attended conferences in Stellenbosch and Durban on aspects of labour law and industrial relations.

15. ILO continued its efforts to disseminate information on the situation in South Africa and on its own work in that connection. The Special Report of the Director General on the Application of the Declaration concerning Action against Apartheid in South Africa, published for the 80th session of the International Labour Conference in 1993, has been widely distributed, and several reports on ILO's activities against apartheid have been prepared for meetings both inside and outside the United Nations system.

V. FREEDOM OF ASSOCIATION IN SOUTH AFRICA

16. In accordance with the procedure set out in the 1950 agreement between the United Nations Economic and Social Council (ECOSOC) and the ILO concerning the treatment of complaints concerning violations of trade union rights in Member States of the United Nations which are not members of the ILO, the report of the ILO Fact-Finding and Conciliation Commission on Freedom of Association (FFCC) set up in May 1991 to investigate one such complaint made by the Congress of South African Trade Unions (COSATU) was transmitted by the ILO Governing Body to ECOSOC's 1992 Substantive session. In its resolution 1992/12 of 20 July 1992, ECOSOC noted with satisfaction the findings, conclusions and recommendations of the FFCC and requested the Secretary-General to invite the Government of South Africa to report, no later

than 31 December 1992, on the measures it had taken to give effect to them, and thereafter at regular intervals until the recommendations had been implemented. The report(s) would be transmitted to the ILO for examination and referral back to ECOSOC with any advice and comments. Despite letters from the Secretary-General of the United Nations to the Government of South Africa explaining the resolution's instructions for a report to be provided to the United Nations which would then submit it to the ILO, no report has to date been received from the Government on the follow-up to the FFCC's recommendations in accordance with the procedure outlined in the ECOSOC resolution.

VI. SITUATION OF ARAB WORKERS IN THE OCCUPIED ARAB TERRITORIES

17. For the fifteenth consecutive year, the Director General sent a mission to visit Israel and the occupied Arab territories. This March 1993 visit was preceded, as in previous years, by a preparatory mission to the Arab countries concerned in order to hold consultations with government authorities, employers' and workers' organizations as well as with the Palestine Liberation Organization (PLO). The report based on these missions examined the evolution of the situation of the Arab workers living in these territories and the measures taken, if any, by the Israeli authorities following the recommendations made in previous reports. Taking into account the special context in which the situation was examined, and in particular the Israeli Government's closing of the Gaza Strip and the West Bank for an indefinite period as from midnight on 30 March 1993, the report considered the various aspects of equality of opportunity and treatment for workers of the occupied Arab territories with regard to the economy and the labour market, including education and training and employment opportunities, conditions of work, including the social insurance system and the arrest of workers, the trade union situation, the situation in the Golan, the establishment of Israeli settlements and their impact on living and working conditions and the ILO programme of technical cooperation. For each item examined, a number of substantial conclusions and recommendations were made for the attention of the Israeli Government. The report on this subject appeared in an appendix to the Report of the Director General submitted to the International Labour Conference at its 80th session, in June 1993, 4/ which considered it at a special sitting of the Conference.

18. The ILO's technical cooperation programme for the Arabs in the occupied Arab territories, in existence since 1980, is regularly updated in line with the needs indicated by the beneficiaries themselves. To define these needs, the exchanges of views that take place during the missions to Israel, the occupied Arab territories and the Arab countries of the region are taken into consideration. All the parties concerned are consulted, as was the PLO in accordance with the resolutions of the United Nations General Assembly concerning assistance to the Palestinian people. In addition, the discussions held at inter-agency and other meetings concerning economic and social assistance extended to the Palestinian people regularly convened by the United Nations are also taken into consideration. The current ILO projects cover trade union training, the training of employers and vocational rehabilitation of the handicapped.

VII. WOMEN WORKERS

19. The promotion of equality of opportunity and treatment for men and women in employment is one of the three priority themes in the programme and budget of the ILO for 1992-93, and one of the five key issues for 1994-95. Activities are carried out across the overall ILO programme and through all means of action including international labour standards, research, advisory services, meetings, technical cooperation activities and information dissemination.

20. The key areas of ILO action for the advancement of the status of women workers are:

(i) To assist member States in the adoption of comprehensive national strategies for the promotion of full equality for women in employment, as requested by the resolution on ILO action concerning women workers, adopted in 1991. This involves assistance for: the design of national policies and instruments for its implementation; the adoption, revision and enforcement of appropriate legislation, based on international labour standards; the implementation of practical measures, including positive action; and the promotion of tripartite dialogue and involvement concerning equality;

(ii) To develop the institutional capacity of member States for the promotion of equality, by strengthening the national machineries on equal opportunities, by contributing to gender sensitization in governments, employers' and workers' organizations, and by promoting national, regional and international linkages and exchanges of experiences for the development of support networks;

(iii) To alleviate poverty and the situation of particularly vulnerable groups of women, by improving women's access to employment, entrepreneurship, training, organization and social protection;

(iv) To promote the participation of women in decision-making at all levels, in particular in Governments, employers' and workers' organizations.

21. As part of its Programme and Budget for the 1992-93 biennium, the ILO has been implementing since January 1992 a special initiative, called the Interdepartmental Project on Equality for Women in Employment, with the purpose of enabling consideration of the complex issues that affect women's employment in a multidisciplinary as well as holistic and integrated way. Among the project's objectives are: to enhance the effectiveness of legislation in promoting equal rights in employment by ensuring practical implementation and by identifying and revising legal provisions which sustain direct or indirect discrimination against women in employment; to increase awareness of the obstacles to equality in the labour market and to propose ways of reducing and removing them; and to examine policy options, strategies and practical measures that can be used by the ILO and its constituent governments, employers' and workers' organizations - in order to promote equality.

22. The project's 12 work items cover: the measurement of wage differentials between men and women, and also a review of the policy of comparable worth; the measurement of job segregation; women in flexible labour; a review of developments in national legislation and other practices relating to maternity protection; assessment of procedures to implement women's rights set out in law; information dissemination strategies on women workers' rights as enshrined in the relevant international labour standards; equality and social security (especially the identification of some of the discriminatory elements and provisions in the existing social security schemes and programmes); sexual harassment at work; new communication strategies for the diversification of women's skill and occupations; participation of women in trade unions; equality and collective bargaining; and assessment of positive action as a means for promoting equality in the labour field.

23. The project's achievements to date include a number of publications, working papers and other reports; the organization of promotional seminars; and the dissemination of its outputs to relevant bodies and individuals within and outside the United Nations system. Among the outputs are: A Conditions of Work Digest, Combating Sexual Harassment at Work published in September 1992, which examines the issue in industrialized countries and reviews legal instruments, policy statements, directives or guidelines adopted by governments, workers' and employers' organizations, women's and other groups on sexual harassment at work. Furthermore, it analyses the various programmes developed to raise awareness of the problem and to promote action against it; a volume on Comparable Worth: An International Perspective (forthcoming publication); a draft report on the Trade Unions' Role in Organizing Women in the Unorganized Sectors (informal and rural); an article on "Sexual Harassment Law in Employment: An International Perspective" in International Labour Review, vol. 131, 1992, No. 6. Several working papers have also been produced including: Women workers, unions and industrial sectors in North America; Gender inequality in the labour market: Occupational concentration and segregation: A manual on methodology; Statistical measurement of gender wage differentials; Cumulative disadvantage: Women industrial workers in Malaysia and the Philippines; Les syndicats et les travailleuses dans le secteur non structuré: le cas des travailleuses domestiques à Récife, Brésil et des vendeuses sur les marchés à Ouagadougou, Burkina Faso; Collective bargaining and promotion of gender equality in South Africa; Unions and Homeworkers: Organizing Homeworkers in the Informal Sector in Australia, the Netherlands and Canada; and El Hostigamiento Sexual en el Empleo. ¿Qué se ha hecho hasta ahora en Costa Rica? (forthcoming). Other reports generated are an Information Kit (video, pocket guide, ABC practical guide) and Modular Training Package on Women Workers' Rights; draft reports on women and trade unions in Trinidad and Tobago; and The Unionization of Women Workers in the Different Economic Sectors of South Africa. Furthermore, a Law and Practice Report on Maternity Protection was submitted to the Governing Body Session of May 1993 to assist its consideration of an item on the revision of the Maternity Protection Convention (revised), No. 103, 1953.

24. A subregional seminar for French-speaking Africa was organized in Abidjan, February 1993 on Promoting Women's Participation in Trade Unions. It discussed various approaches and strategies for promoting the participation of women in trade unions, and examined the trade unions' programmes and activities concerning women workers, as well as the promotion of gender

equality in the unions. The seminar emphasized the need for each trade union to elaborate an action plan to promote effectively the participation of women workers in the union; to cover workers in the informal and rural sectors since the trade unions should also play a role in the mobilization and strengthening of these groups of workers who tend to be unprotected and often unorganized; and to keep up-to-date statistics disaggregated by sex. Furthermore, it emphasized the essential role of workers' education, the training of women instructors in workers' education, the development of relevant workers' education materials and the need to inform women about their legal rights. An Interregional seminar on Effective Information Dissemination Strategies on Women Workers' Rights was held in June 1993, at Turin, to pre-test the information kit and modular training package on women workers' rights produced by the project and to, inter alia, identify the essential elements that should go into both the adaptation of the materials to specific regional contexts and also into a comprehensive dissemination of the materials. Finally, the project has undertaken work on the preparations for the International Forum on Equality for Women in a Changing World: Challenges for the Future, scheduled for April 1994, that will mark the culmination of the project and will, inter alia, examine the trends, challenges, setbacks and opportunities arising in the area of women's work in response to changes in economic and institutional structures; analyse the options and approaches required to respond to these challenges; and identify the elements of an agenda for future action by the ILO and its tripartite constituents. This Forum will constitute an integral part of the ILO's contribution to the World Conference.

25. Cooperation within the United Nations system has continued. The ILO participated regularly at the Ad hoc Inter-Agency Meetings on Women both at the global level, under the coordination of the Division for the Advancement of Women, and at the regional level, in coordination with the Regional Economic Commissions. The ILO also participated at the 37th session of the Commission on the Status of Women, and is fully involved in the preparations for the Fourth World Conference on Women, and in its preparatory activities.

VIII. MIGRANT WORKERS

26. The ILO's activities relating to international migration for employment aim at providing support to migrant sending and migrant receiving countries in order to help them deal with current priority concerns, cooperate in the recruitment and return of migrant workers and improve the protection of migrant workers and members of their families. The promotion of the ILO standards concerning migrant workers is a prominent feature of all activities undertaken. The key concern of these standards is non-discrimination and equality of opportunity and treatment.

27. ILO activities have contributed significantly to the acceptance of the principle of equality of treatment for migrant workers and the elimination of discrimination against them. However, the situation of most migrant workers remains a matter of concern, particularly in the countries which have not yet ratified any of the relevant Conventions and where national legislation and practice is often far from being consistent with the principles of the ILO. The development of migration for employment is becoming the focus of increased attention by ILO constituents. After the Gulf crisis had revealed the precarious status of migrant workers, the 11th Asian Regional Conference

(Bangkok, November-December 1991) and the 79th (1992) session of the International Labour Conference adopted resolutions calling on the ILO to strengthen its activities with respect to the protection and promotion of migrant workers' rights.

28. Apart from its ongoing activities related to international migration for employment, such as technical advisory services to emigration countries in the field of setting up coherent emigration and return policies, and the Mediterranean Information and Exchange System (MIES), which groups together the 10 countries in the Mediterranean basin most directly concerned with regional migration issues, the ILO has engaged in several activities aimed explicitly at promoting the protection of migrant workers and reducing discrimination against these workers.

29. An integrated training approach to the problems of migrant workers has been developed to train trade union officials in both sending and receiving countries with a view to enhancing cooperation between trade unions in countries at both ends of the migration process and enabling them better to defend migrant workers' rights. To this end, a workers' education seminar (Tunis, 14-23 December 1992) was held, bringing together union representatives from Algeria, Cape Verde, Guinea, Mali, Morocco, Mauritania, Senegal and Tunisia on the one hand and Belgium, France, Germany, Italy, the Netherlands and Spain on the other. Similar seminars, as well as meetings between representatives of Governments, employers and workers from both sending and receiving countries in Central and Western Africa will be organized in the near future.

30. An interregional project was launched to combat discrimination against migrant workers and ethnic minorities in the world of work. This project, which focuses on industrialized migrant receiving countries, aims at tackling informal or de facto discrimination. Preliminary research findings made it clear that this kind of discrimination is widespread and persistent. Moreover, discrimination in the labour market seriously hampers the migrants' integration in society at large. The objective of the project is to reduce discrimination by informing policy makers, employers, workers and trainers engaged in anti-discrimination training on how legislative measures and training activities can be rendered more effective, based on an international comparison of the efficacy of such measures and activities.

31. Preparations are under way for the launching of a new major work item covering some 30 migrant sending and receiving countries in Africa, the Americas, Asia and the Pacific, and Europe. These countries will be selected according to criteria such as the extent of their migratory movements and the numbers of the migrant population in relation to the national population. The choice of countries will also reflect the main current migratory movements from South to North, South to South and East to West. The objective of this work is to promote the progressive application of international labour standards concerning migrant workers in these countries, taking into account their institutional and legislative constraints. Its immediate aims therefore are (i) to reinforce national capacity in the countries concerned to establish the institutional structures, competence and techniques required to manage the

movement of incoming and returning migrant workers; and (ii) to provide support to the countries concerned with a view to achieving broader acceptance and application of international labour standards concerning migrant workers.

IX. COLLABORATION WITH OTHER INTERNATIONAL ORGANIZATIONS

32. As in the past, the arrangements whereby the ILO collaborates with other international organizations on questions concerning the supervision of international instruments and matters of interest to more than one organization continued to function in relation to discrimination in employment and occupation, indigenous and tribal peoples, migrant workers, forced labour, child labour and other questions falling within ILO's mandate. The ILO regularly takes an active part in the United Nations Commission on Human Rights and in its Sub-Commission on the Prevention of Discrimination and Protection of Minorities, as well as the Sub-Commission's Working Groups on Indigenous Populations and on Contemporary Forms of Slavery. The ILO also takes an active part in various treaty bodies established to supervise United Nations human rights instruments, such as the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child. The ILO was represented at the Vienna Conference on Human Rights in June 1993 and has set up a focal point to coordinate input to the 1995 United Nations Summit on Social Development.

33. Collaboration continued between the ILO and the Centre for Human Rights through the joint working group for consultation and collaboration in relation to technical cooperation and human rights questions.

Notes

1/ International Labour Conference, 80th session, 1993: Report III (Part 4A): Report of the Committee of Experts on the Application of Conventions and Recommendations. This annual report contains a review of the application by ratifying States of ILO Conventions, including those dealing with fundamental human rights questions which are related to many of the subjects discussed by the Sub-Commission including, e.g. freedom from discrimination, forced and compulsory labour, freedom of association, and indigenous and tribal peoples. Copies of the Committee's annual report are regularly furnished to the United Nations Centre for Human Rights and are available on request for members of the Sub-Commission.

2/ The report of this Committee is contained in the Record of Proceedings of each session of the Conference, which takes place in June of each year. It includes a detailed record of the discussions of each case submitted to it. Pending publication in final form in the Record of Proceedings, the report of the Conference Committee can be made available to members of the Sub-Commission in the form of a Provisional Record of the Conference.

3/ International Labour Conference, 80th session, 1993: Report III (Part 4B): Workers with family responsibilities, General Survey of the Committee of Experts on the Application of Conventions and Recommendations. A total of 153 reports on the law and practice in this area were received and summarized in this General Survey, copies of which have been supplied to the United Nations Centre for Human Rights and are available on request for members of the Sub-Commission.

4/ International Labour Conference, 80th session, 1993: Report of the Director General, Appendices (Vol. 2), Appendix II: Report on the situation of workers of the occupied Arab territories.